

Message Text

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E.O. 11652: N/A
TAGS: CASC
SUBJECT: PROCUREMENT OF LEGAL SERVICES BY POST

REF: 77 STATE A-4386

1. POST REQUESTS AUTHORIZATION AS PER REFAIR TO HIRE A LOCAL ATTORNEY TO ASSIST CONSULAR OFFICER ON RECURRING BASIS IN CASES INVOLVING JAILED AMERICANS.

2. NEPALESE LEGAL SYSTEM INVOLVES MORE THAN ONE TYPE OF COURT WITH DIFFERENT RULES IN EACH CASE. MOREOVER, WRITTEN RULES AND ESTABLISHED PRACTICE ARE NOT ALWAYS THE SAME. IN GENERAL THE SYSTEM IS RELATED TO THAT IN INDIA, ITSELF A VERSION OF BRITISH COMMON LAW WELL MODIFIED TO COLONIAL EXPERIENCE. RESULT IS SOMETHING WHICH BEARS LITTLE RESEMBLANCE TO LEGAL PRACTICES AS WE KNOW THEM. UNFORTUNATELY THERE APPEARS TO BE UPSWING IN CASES OF AMERICANS RUNNING AFOULD WITH THIS SYSTEM. SMUGGLING CASES ARE MOST COMMON, WITH NARCOTICS OFFENSES BEING HANDLED ENTIRELY DIFFERENTLY FROM THOSE INVOLVING OTHER GOODS (E.G. WATCHES). THERE ARE ALSO LEGAL ISSUES ARISING FROM INDIVIDUALS NEEDING PSYCHIATRIC HELP AS RESULT OF DRUG USE OR OTHER UNKNOWN FACTORS. WITH THESE CASES -- AND RESULTING LEGAL ISSUES FACED BY EMBASSY -- ON INCREASE, WE BELIEVE IT MAKES SENSE FOR EMBASSY TO TAKE ADVANTAGE OF PREVAILING EXTREMELY LOW LEGAL FEES AND OBTAIN SERVICES OF

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PAGE 02 KATHMA 03351 300508Z

QUALIFIED LAWYER ON RETAINER BASIS.

3. KUSUM SHRESTHA, PAMSHAH PATH, KATHMANDU, NEPAL IS NAME OF PROPOSED LAWYER. HE IS LISTED UNDER 7 FAM 873, HAS LAW DEGREE FROM CALCUTTA UNIVERSITY, 14 YEARS OF EXPERIENCE INCLUDING A NUMBER OF CASES INVOLVING AMERICANS. THOUGH NEPAL DOES NOT HAVE A PROFESSIONAL RATING SERVICE AS SUCH,

MR. SHRESTHA HAS HANDLED SOME OF NEPAL'S MOST CELEBRATED CASES. MOREOVER OUR AD HOC CONSULTATION WITH HIM IN PAST HAVE ESTABLISHED HIS RELIABILITY TO VARIOUS ELEMENTS OF MISSION.

4. POST ESTIMATES MR. SHRESTHA'S SERVICES MIGHT BE REQUIRED 3 OR 4 TIMES A YEAR AT A TOTAL COST OF NOT MORE THAN \$50.00.

5. AT THE MOMENT THE BRITISH AND AMERICAN CONSULS IN KATHMANDU ARE THE ONLY CONSULAR OFFICERS WHOSE MANDATE REQUIRES THAT THEY INVOLVE THEMSELVES IN THE LEGAL ISSUES ATTENDANT TO SECURITY AND PROTECTION CASES. THE BRITISH EMBASSY RETAINS "NEPAL LAW FIRM" (KUSUM SHRESTHA'S FIRM) AND THE CONSUL CAN CALL ON THEM FOR LEGAL ASSISTANCE AS NEEDED.
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